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Attorneys for Plaintiff and Counterdefendant
MEDSQUIRE, LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MEDSQUIRE, LLC

Plaintiff,

vs.

SPRING MEDICAL SYSTEMS, INC.;
QUEST DIAGNOSTICS, INC.;
NEXTGEN HEALTHCARE
INFORMATION SYSTEMS, INC.;
HENRY SCHEIN MEDICAL SYSTEMS,
INC.; HEWLETT-PACKARD
COMPANY; APRIMA MEDICAL
SOFTWARE, INC.;
eCLINICALWORKS, LLC; MED3000,
INC.; PULSE SYSTEMS, INC.;
COMPULINK BUSINESS SYSTEMS,
INC.; NEXTECH SYSTEMS, INC.;
NAVINET, INC.; successEHS, INC.;
athenaHEALTH, INC.

Defendants.

) Case No. CV11-4504-JHN (PLAx)
)

) **COUNTERDEFENDANT**
) **MEDSQUIRE, LLC'S REPLY TO**
) **COUNTERCLAIMS OF**
) **ECLINICALWORKS, LLC**

eCLINICALWORKS, LLC;

Counterclaimant,

vs.

MEDSQUIRE, LLC;

Counterdefendant.

1 Plaintiff-Counterdefendant Medsquire, LLC. (“Plaintiff” or “Medsquire”), by
2 and through its attorneys, replies herein to the numbered paragraphs of the
3 Counterclaims of Defendants-Counterclaimant eClinicalWorks, LLC
4 (“eClinicalWorks”). Unless expressly admitted, all responses of Medsquire to the
5 Counterclaims shall be deemed denied.

6 NATURE OF THE ACTION

7 1. Medsquire admits that eClinicalWorks purports to seek a declaration by
8 this Court that claims of United States Patent No. 5,682,526 are invalid and/or not
9 infringed by eClinicalWorks. Medsquire denies any and all remaining allegations
10 contained in Paragraph 1 of the Counterclaims.

11 JURISDICTION AND VENUE

12 2. The allegations in Paragraph 2 of the Counterclaims state conclusions of
13 law to which no response is required. Insofar as an answer may be required,
14 Medsquire admits that eClinicalWorks purports to assert an action for declaratory
15 judgment. Medsquire further admits that venue is proper as to it. Medsquire denies
16 any and all remaining allegations and/or legal conclusions contained in Paragraph 2 of
17 the Counterclaims.

18 THE PARTIES

19 3. On information and belief, Medsquire admits the facts stated in
20 Paragraph 3 of the Counterclaims.

21 4. Medsquire admits the facts stated in Paragraph 4 of the Counterclaims.

22 5. Medsquire admits the facts stated in Paragraph 5 of the Counterclaims.

23 6. Medsquire admits the facts stated in Paragraph 6 of the Counterclaims.

24 7. Medsquire admits the facts stated in Paragraph 7 of the Counterclaims.

25 8. The allegations of Paragraph 8 of the Counterclaims state a conclusion of
26 law to which no response is required. Insofar as an answer may be required,
27 Medsquire admits that there is an actual, immediate and justiciable controversy
28 between eClinicalWorks and Medsquire. Medsquire denies any and all remaining

1 allegations and/or legal conclusions contained in Paragraph 8 of the Counterclaims.

2 9. Medsquire denies the facts stated in Paragraph 9 of the Counterclaims.

3 **FIRST COUNTERCLAIM FOR RELIEF**

4 **Declaratory Judgment of Invalidity**

5 **and Non-Infringement of U.S. Patent No. 5,682,526**

6 **(28 U.S.C. §§ 2201 and 2202)**

7 10. Medsquire repeats, realleges and incorporates by reference Paragraphs 1-
8 9 of its Reply as if fully set forth herein.

9 11. Medsquire denies the facts stated in Paragraph 11 of the Counterclaims,
10 including, without limitation, the facts stated in each subparagraph (a)-(k).

11 12. Medsquire denies the facts stated in Paragraph 12 of the Counterclaims.

12 13. Medsquire denies the facts stated in Paragraph 13 of the Counterclaims.

13 14. Medsquire denies that eClinicalWorks is entitled to the relief prayed for,
14 or for any relief on its Counterclaims whatsoever.

15 **DEMAND FOR JURY TRIAL**

16 15. Medsquire denies that eClinicalWorks is entitled to a jury trial on its
17 declaratory relief Counterclaims.

18 **AFFIRMATIVE DEFENSES**

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20 Medsquire further asserts the following affirmative defendants upon
21 information and belief. In asserting these defenses, Medsquire does not assume the
22 burden of proof for any issue with respect to which applicable law places the burden
23 of proof upon eClinicalWorks.

24 **FIRST AFFIRMATIVE DEFENSE:**

25 **Estoppel**

26 1. eClinicalWorks's Counterclaims are barred, in whole or in party, by the
27 doctrine of estoppel.

SECOND AFFIRMATIVE DEFENSE:

Waiver

2. eClinicalWorks's Counterclaims are barred, in whole or in part, by the doctrine of waiver.

THIRD AFFIRMATIVE DEFENSE:

Unclean Hands

3. eClinicalWorks's Counterclaims are barred, in whole or in part, by the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE:

Acquiescence

4. eClinicalWorks's Counterclaims are barred, in whole or in part, by the doctrine of acquiescence.

FIFTH AFFIRMATIVE DEFENSE:

Failure to State a Claim

5. eClinicalWorks fails to state a claim upon which relief can be granted.

RESERVATIONS

Medsquire reserves the right to amend this Reply, including the right to add affirmative defenses, counterclaims, and third-party claims if and when appropriate.

DATED: June 30, 2011

HENNIGAN DORMAN LLP

By /s/Lawrence M. Hadley
Lawrence M. Hadley

Attorneys for Plaintiff and
Counterdefendant, MEDSQUIRE LLC